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\$ 1614

PTO/SB/21 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/088,629
Filing Date	03/19/2002
First Named Inventor	Heithoff
Art Unit	1614
Examiner Name	Phyllis G. Spivack
Attorney Docket Number	AL01071K

Total Number of Pages in This Submission

6

### ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input checked="" type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	Reference ( 9 documents);
<input checked="" type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s) _____	Return Post Card
<input type="checkbox"/> Certified Copy of Priority Document(s)	Remarks	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	THOMAS D. HOFFMAN, Reg. No. 28,221
Signature	<i>Thomas D Hoffman</i>
Date	March 3, 2004

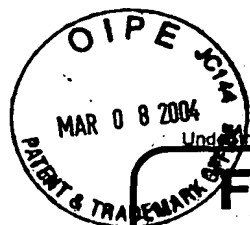
### CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	THOMAS D. HOFFMAN, Reg. No. 28,221		
Signature	<i>Thomas D Hoffman</i>	Date	March 3, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ ) 600.00

## Complete if Known

Application Number	10/088,629
Filing Date	03/19/2002
First Named Inventor	Heithoff
Examiner Name	Phyllis G. Spivack
Art Unit	1614
Attorney Docket No.	AL01071K

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit  
Account  
Number  
Deposit  
Account  
Name

19-0365

Schering-Plough Corporation

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Credit any overpayments

☐ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	180	2005	80	Provisional filing fee	
SUBTOTAL (1)					(\$ ) 0

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims		Fee from below	Fee Paid
Total Claims	Independent Claims	-20** =	-3** =		

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$ ) 0

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	420.00
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	180.00
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ ) 600.00

## SUBMITTED BY

Name (Print/Type) THOMAS D. HOFFMAN

Registration No. 28,221  
(Attorney/Agent)

(Complete if applicable)

Telephone 908-298-5037

Signature

Thomas D. Hoffman

Date

March 3, 2004

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS  
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03/10/2004 HLE333 00000112 190365 10088629

01 FC:1252 420.00 DA



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): KIM A. HEITHOFF : Group Art Unit: 1614  
Serial No.: 10/088,629 : Examiner: Phyllis G. Spivak  
Filed: 03/19/2002 : Attorney Docket No. : AL01071K  
For: TREATING ALLERGIC AND INFLAMMATORY CONDITIONS :  
X

**INFORMATION DISCLOSURE STATEMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Schering-Plough Corporation  
Patent Department K-6-1 1990  
Kenilworth, NJ 07033

Sir:

**Response**

This is in response to the Official Action dated Oct.3, 2003 rejecting claims 9-55 as being unpatentable under 35USC§103(a).

Applicant respectfully requests reconsideration and withdrawal of the grounds of rejection.

Applicant encloses the following: (1) an Information Disclosure Statement and Form PTO – 1449 with copies of nine (9) references; (2) a Response Transmittal Form; (3) a Petition and Fee for a Two Month Extension of Time to Respond, (4) a Fee Transmittal Form (in duplicate), and (5) a Return Post Card.

**Remarks**

Claims 9-55 stand rejected under 35USC§103(a) as being unpatentable over Katz in view of Handley et al.

Applicant disagrees and requests reconsideration and withdrawal of the grounds of rejection.

Katz teaches administration of loratadine to students with seasonal allergic rhinitis who may experience decreased academic performance and productivity. Katz also discloses in the paragraph entitled "Goods of Pharmacological Intervention in Students with Allergic Rhinitis" on the top of page 46 that "young adults". are a different class of patient than the "general population", i.e., adults and are close to the "elderly". (emphasis added)

In the "Conclusion" on page 98, Katz provides the following teaching regarding "young" adults:

"clinicians should be aware that students are an active group that may benefit from treatment with the nonsedating second-generation antihistamines. Clinicians should have the ability to identify treatments that do not limit academic or physical performance in school-age patients" (emphasis added)

Applicant's claimed inventions is directed to methods of substantially returning workplace productivity of a person suffering from an allergic and/or inflammatory condition of

the skin or passages to the person's baseline workplace productivity by administering an initial amount of desloratadine to said person effective for such returning.

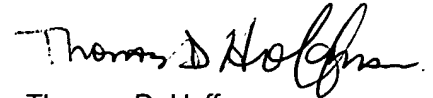
Applicant asserts that (1) Katz does not touch his claimed invention and that (2) Handley et al cures none of the deficiencies of Katz.

Handley et al teach using desloratadine to treat allergic asthma and dermatitis in humans while avoiding the liability of adverse side effects associated with the administration of non-sedating antihistamines. Such side effects are reported to include cardiac arrhythmia and tumor promotion. Applicant asserts that "such reported side effects" would unlikely be present in students or young adults so there appears to be no incentive to combine the teachings of Handley with Katz, without reference to applicant's own claimed invention.

Reconsideration and withdrawal of this ground of rejection is urged.

If applicant's attorney can be of any assistance in advancing prosecution, please contact him.

Respectfully submitted,

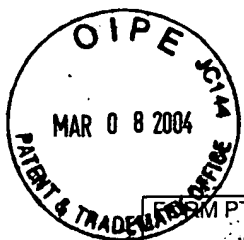


Thomas D. Hoffman

Attorney of Record for Applicant

Reg. No. 28,221

Tel: 908-298-5037



FORM PTO-1449		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		ATTY. DOCKET NO.: AL01071K		APPLICATION NO.: 10/088,629	
<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (Use several sheets if necessary)				APPLICANT: Heithoff			
				FILING DATE: 03/19/2002		GROUP: 1614	
<b>U.S. PATENT DOCUMENTS</b>							
*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB- CLASS	FILING DATE IF APPROPRIATE
	AA	6,054,463	04/25/2000	Handley et al	514	290	
	AB	5,900,421	05/04/1999	Handley et al.	514	290	
	AC	5,595,997	01/21/1997	Aberg et al.	514	290	
	AD	4,659,716	04/21/1987	Villani et al.	514	290	
<b>FOREIGN PATENT DOCUMENTS</b>							
		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB- CLASS	TRANSLATION YES NO
✓	AE	WO 98 48803	11/05/98	WIPO			
✓	AF	WO 98 34614 A	08/13/98	WIPO			X
✓	AG	WO 98 06394 A	02/19/98	WIPO			
<b>OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)</b>							
✓	AH	Genovese: 'loratadine and desethoxycarbonyl loratadine...' CLINICAL AND EXPERIMENTAL ALLERGY, vol. 27, no. 5, 1997, pages 559 - 567					
✓	AI	Molet, S. et al: 'Inhibitory activity of loratadine and descaboxyethoxyloratadine on histamine-induced activation of endothelial cells' CLIN EXP. ALLERGY (1997), 27 (10), 1167-1174					
EXAMINER				DATE CONSIDERED			
*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.							